

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 August 2024

DOCKET NUMBER: AR20240000251

APPLICANT REQUESTS:

- an upgrade of his characterization of service from "Under Honorable Conditions (General)" to "Honorable"
- change of the narrative reason, corresponding Separation Program Designator (SPD) Code, and Reentry Eligibility (RE) Code for separation to reflect "Secretarial Authority" as the basis for his separation
- change of status at the U.S. Military Academy (USMA) West Point, NY by:
  - showing he is a Graduate with a Bachelor of Science degree
  - the USMA Superintendent conferred his diploma, and the Dean of the Academic Board changed his transcript to reflect the same
- cancellation of recoupment of debt to the Federal Government for education cost at the USMA and refund of said payment
- any other relief that is equitable and just
- to appear in person at his own expense before the Board

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Counsel's brief and 17 enclosures (Tabs A - Q) (537 pages)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), Section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. A self-authored statement from the applicant is provided in Tab N and is available in its entirety for the Board's consideration. He rendered this statement as a supplement to the Department of Veterans Affairs (VA) claim he submitted when applying for benefits. The applicant states, in part:

a. Prior to entering the service (before July 2001), he had no formal diagnosis of mental health conditions. He self-reported a history of anxiety, typical of that of an adolescent. He had no history of sexual or physical abuse. His maternal family history included undiagnosed anxiety and depression. He had a stable home with two married parents in an owner-occupied home in the suburbs, and a lower-working class upbringing. He had no history of chronic medication, psychiatric or otherwise. He passed medical and physical screening for admission to the USMA in 2001. He did not display any history of discipline or insubordination prior to enrolling at the USMA. His high-school records indicate that of a high-functioning, stable and well-behaved student with no record of police issues, issues with authority, or any disciplinary infractions at school. By all accounts he was a highly gifted, intellectual student, ranked 20th in his class of 664 students. His teachers provided him positive recommendations that led to him earning a highly competitive admission to the USMA (and several other competitive schools such as George Washington University and Florida State University).

b. He was a cadet at the USMA from July 2001 through his discharge in October 2005. In his first academic semester, at age 18, he had the rank of Fourth Class Cadet ("Plebe" or "Cadet Private") when he was systematically sexually abused by a superior male First Class Cadet ("Firstie" or "Cadet Lieutenant") in his cadet company. For mental health, moral, and religious reasons, the applicant chooses not to directly name his assailant, and in this statement the assailant will be referred to as Cadet X (CDT X). The nature of the sexual abuse involved CDT X grooming the applicant with comments and harassment in the showers. Comments would include a combination of negative comments about the applicant's naked body, thin physical stature, dark skin tone, and derogatory comments about the applicant's uncircumcised penis. The harassment escalated, systematically, to a pattern of CDT X abusing his position of power and coercing the applicant to expose his penis and masturbate himself while CDT X watched. This occurred in the barracks showers and in CDT X's barracks room regularly for a year. This pattern of abuse, both in showers and in the privacy of CDT X's barracks room, continued intermittently. It escalated to include CDT X using the applicant's digital camera to take photos of him exposing himself and masturbating in the shower and locker room areas; photos that the applicant was later disciplined and discharged for being in possession of. The frequency of this abuse was about every other week, or a few times a month. The sexual abuse lasted most of the applicant's first year at the USMA and did not cease until after the academic year 2001-2002 completed, and CDT X graduated.

c. The applicant also had reason to fear for his physical safety. This involved fear of enhanced hazing, which could involve uncomfortable levels of push-ups or other physical demands. More so, the applicant feared severe retribution if the nature of his sexual abuse was revealed due to the homosexual nature of it. In 2001, the Army operated under the "Don't Ask, Don't Tell" (DADT) policy under which engaging in homosexual behavior was punishable by discharge. This put the applicant in a paradox:

to report the behavior would involve reporting having engaged in homosexual behavior. While the applicant identifies as heterosexual, the nature of the abuse behaviors involved exposing himself and masturbating in the presence of another male. The applicant perceived that the Army would easily identify this as homosexual behavior under DADT and punish him. Thus, the possibility of reporting or revealing the abuse ran the perception of two severe risks for the applicant: 1) the tangible risk of punishment from the Army due to homosexual behavior and sexual behavior in the barracks, and 2) fear of social and physical retribution from other Cadets for being perceived as a homosexual. Relatedly, he feared that reports of his homosexual behavior (despite it being sexual abuse) reaching other military members, or his personal friends and family, who were more socially conservative and Catholic. The sexual abuse the applicant endured, in other words, went against his own sexual identity and religious morality in his family. Due to the applicant's perception of anti-gay norms in society, and especially in the Army in 2001, he feared social and physical retribution from his peers and other cadets or Soldiers if it was rumored he was gay (whether that were accurate or not). His perception was that other cadets and other Soldiers could find gay cadets in secluded locations, or off-post when on leave, and cause physical harm by beating or other types of physical assault. Such perceptions were founded in historical events reported in the media.

d. The applicant contends that the sexual abuse at the hands of his assailant, CDT X, constitutes Military Sexual Trauma (MST). He was coerced into demeaning sexual behavior, against his will, via power, differentials of rank, threats of negative treatment, and promises of better treatment for cooperating in the abuse. He suffered comments about his body that he found unwelcome, demeaning, and threatening. He further suffered unwanted sexual advances from a male cadet, of superior rank, that he found threatening. The applicant suffered this sexual abuse and trauma for nearly an entire year, as a young 18-year-old cadet fourth class, in a military facility while on active duty as a cadet at the USMA. These facts underscore the fact that the applicant was a victim of life-altering MST. These events led to several physical symptoms, behavioral issues, and mental health issues, including Post Traumatic Stress Disorder (PTSD).

3. Counsel states, in part:

a. The applicant entered the USMA on 2 July 2001. He was enrolled there for over four years before he was separated with a General (Under Honorable Conditions) characterization of service. His narrative reason for separation reflects "Misconduct."

(1) Unfortunately, prior to his separation from the USMA and the Army, the applicant became a victim of MST and sexual abuse at the hands of a senior service member. The MST and abuse occurred early in the applicant's first year at the USMA in 2001-2002 when he was 18-19 years old and groomed and abused for months by a

senior Cadet. He did not come forward about this abuse, as is common for sexual abuse victims, until 20 years later in November 2021. The applicant has provided a detailed account of the MST and his resulting PTSD and mental health conditions in his personal statement enclosed at TAB N. As a result of the MST, the applicant developed mental health conditions, including PTSD, and sexual compulsivity. He sought psychiatric treatment during his service, attempting to address various symptoms including sexual compulsivity with pornography and online sex. He received treatment from an Army Psychiatrist, Colonel (COL) JT. As a result of this treatment, the applicant was referred to a Medical Evaluation Board (MEB). The MEB concluded the applicant was not fit for accession, based on four conditions, including Major Depressive Disorder. The MEB recommended that the applicant not be inducted into the Army, a recommendation that was adopted by his technical chain. Unfortunately, the applicant's case was never referred to a Physical Evaluation Board. Rather, he was separated pursuant to the findings of the misconduct as outlined below.

(2) On or about 23 May 2005, another cadet, with whom the applicant was in an online friendship with, inadvertently discovered nude images of him via a link on his America Online (AOL) Instant Messenger Buddy Profile. The applicant had posted these images on a Yahoo Photos server that he used for his private sexual life and believed these photos to be only available to specific individuals. He maintains that he inadvertently failed to lock the images with a password and did not intend for other cadets or service members to see them. The cadet notified her chain of command of the applicant's images. It is important to note that the cadet provided a statement in which she admits that the applicant did not ask her to view these photos or otherwise offer them to her. As a result, the applicant became the subject of a misconduct investigation, which was initiated via memorandum, dated 6 June 2005. The applicant was accused of the following misconduct:

(a) On or about 25 April 2005, failed to obey a lawful general order, to wit: U.S. Corps of Cadets Standard Operation Procedures (USCC SOP), Chapter 9, paragraph 912, by displaying pornography or sexually related material on his computer and by accessing via a government-operated computer system a website containing pornographic material, such act constituting a violation of Army Regulation 210-26 (USMA), paragraph 6-14 (Other Major Misconduct Offenses - Article 92 of the Uniform Code of Military Justice (UCMJ) Failure to Obey a Lawful General Order or Regulation).

(b) On or about 22 May 2005, attempt to disobey a lawful general order, to wit: USCC SOP Annex A, Chapter 1, paragraph 102b, by attempting to engage in an improper relationship with a fourth class cadet, Cadet VB, such act constituting a violation of Army Regulation 210-26, paragraph 6-14 (Other Major Misconduct Offenses - Article 80, UCMJ Attempts; Article 92, of the UCMJ Failure to Obey a Lawful General Order or Regulation).

(c) Between on or about 16 May 2004 and on or about 22 May 2005, create in his AOL Instant Messenger Buddy Info a link to obscene, nude photographs of himself masturbating and ejaculating in the barracks, intending that female USMA cadets would access and view the photographs, and knowing that he had previously been disciplined and placed under a suspended separation for similar misconduct on 31 May 2002, such acts constituting a violation of Army Regulation 210-26, paragraph 6-9 (Ungentlemanly Conduct).

(3) The Investigating Officer (IO) found that the preponderance of the evidence established two of the three allegations. As a result of the findings at the misconduct board, the applicant was ultimately discharged from the USMA and Army with a General characterization of service effective 5 October 2005.

(4) The applicant petitioned the Army Discharge Review Board (ADRB) for relief in 2013 and was denied relief in 2014. Although he was denied relief, he was notified that his case had been identified as qualifying for reconsideration due to the settlement terms of the Kennedy Class Action.

(5) After his discharge, the applicant was evaluated and rated by the VA for service-connected conditions. The VA found that the applicant's MST and related mental health conditions are service-connected and rated him at 70 percent (%) disabled for PTSD related to MST. He also obtained several medical opinions related to this petition. He has been granted accommodations under the Americans with Disabilities Act (ADA) at his place of work as a result of his MST and related medical conditions.

b. Although the applicant was discharged more than 15 years ago, his petition is ripe for consideration before this Board. He is entitled to the requested relief for the following reasons:

(1) At the time of the misconduct that ultimately led to his discharge, he was suffering from mental health conditions and had been the victim of MST;

(2) The applicant's MST and resulting mental health conditions caused or contributed to his conduct and his misconduct is thus mitigated or entirely excused by said conditions;

(3) The Service failed to consider the extent to which the applicant's mental health conditions and MST caused and/or contributed to his misconduct; and

(4) The applicant was medically unfit for duty and should have been medically retired.

c. Counsel provides the following 17 enclosures:

- Tab A - Applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Tab B - Applicant's Official Military Personnel File (OMPF) (commonly known as Army Military Human Resource Record (AMHRR))
- Tab C - Misconduct Investigation regarding his offenses committed at the USMA
- Tab D - MEB Proceedings
- Tab E - 2014 ADRB Decision
- Tab F - Kennedy Class Action Notice from the Army Review Boards Agency (ARBA), Arlington, VA
- Tab G - Medical Records, rendered by both VA and the USMA
- Tab H - VA Claims submitted by the applicant
- Tab I - VA Ratings decisions showing, in part, the applicant was awarded a disability rating of 70% for service-connected PTSD effective 6 November 2021
- Tab J - Medical opinion of Dr. BM, dated 10 August 2022, which shows he provided mental health care for the applicant since December 2021 for PTSD Chronic with Panic Attacks, Anxiety, and Depression
- Tab K - Medical opinion of Dr. BM, dated 25 May 2023, wherein he notes it is important to consider the applicant's diagnosis of PTSD, which is a result of MST he experienced during his service from August 2001 through May 2002
- Tab L - Medical opinion of Dr. EF, which shows he has been caring for the applicant since December 2021 and diagnosed him with PTSD Chronic with Panic Attacks stemming from MST he suffered in 2001 while in service
- Tab M - An ADA Approval Letter, dated 30 August 2023, shows the applicant was approved for the following Workplace Accommodations:
  - Permissible use of allotted sick leave for purposes of managing and treating the condition. Includes attending treatment appointments
  - Flexible work schedule, approved by manager as needed, for purposes of coping with condition and for attending treatment appointments. May include telework, or alternative hours with "make up" time
- Tab N – Applicant's Personal statement
- Tab O - Department of Defense (DoD) correspondence
  - Secretary of Defense Memorandum for Secretaries of the Military Departments, Subject: Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCM/NR) Considering Discharge Upgrade Requests by Veterans Claiming PTSD, dated 3 September 2014, (Commonly known as the "Hagel Memo")
  - Office of the Under Secretary of Defense Memorandum for Secretaries of the Military Departments, Subject: Clarifying Guidance to Military

Discharge Review Boards (DRB) and BCM/NRs Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment, dated 25 August 2017, (Commonly known as the "Kurta Memo")

- Under Secretary of Defense Memorandum for Secretaries of the Military Departments, Subject: Guidance to Military DRBs and BCM/NRs Regarding Equity, Injustice, or Clemency Determinations, dated 25 July 2018 (Commonly known as the "Wilkie Memo")
  - Tab P - Evidence relating to former COL JT (the psychiatrist who evaluated the applicant at the USMA) which shows he was charged with 66 counts of Possession of Child Pornography and one count of Criminal Use of a Communication Facility
  - Tab Q - Applicant's security clearance information which shows he had an active Top Secret clearance as of 18 April 2022
4. The applicant's USMA cadet records are not available for the Board's review. This case is being considered using documents provided by the applicant, his counsel, and documents in his AMHRR.
  5. The applicant entered the USMA as a cadet on 2 July 2001, at 18 years old.
  6. A DA Form 873 (Certificate of Clearance and/or Security Determination) shows the applicant was granted a Secret clearance on 6 June 2003.
  7. The applicant's DA Form 67-9 (Officer Evaluation Report) rendered for the period from 5 June 2004 through 1 July 2004 shows he received favorable ratings and comments from both his rater and senior rater.
  8. The applicant successfully completed the 10th Mountain Division (Light) Air Assault Course on 28 July 2004.
  9. The applicant scored 264 of a possible 300 points on the Army Physical Fitness Test on 19 April 2005.
  10. On 28 May 2005, the applicant completed a Standard Form 312 (Classified Information Nondisclosure Agreement) and DA Form 71 (Oath of Office) appointing him as an officer in the Army, in the rank/grade of second lieutenant/O-1, effective 28 May 2005.
  11. Tab D shows a DA Form 3947 (MEB Proceedings), which shows a MEB was convened on 13 June 2005 to evaluate the applicant's medical conditions.

a. After consideration of clinical records, laboratory findings, and physical examination, the MEB found the applicant had the following medical conditions/defects.

(1) Major Depressive Disorder, Single Episode, Moderate. Approximate date of origin 2005. Did not meet Army Regulation 40-501 (Standards of Medical Fitness), Chapter 2, paragraphs 28 and 29. Did meet Army Regulation 40-501, Chapter 3. This condition was incurred while entitled to base pay and did not exist prior to service.

(2) The MEB determined the following conditions were not incurred while entitled to base pay and existed prior to service.

- Dysthymic Disorder. Meets Army Regulation 40-501. Approximate date of origin 1998
- Sexual Disorder Not Otherwise Specified. Does not meet Army Regulation 40-501, Chapter 2, paragraph 30 (Chapter 3 not applicable). Approximate date of origin 1998
- Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive. Meets Army Regulation 40-501. Approximate date of origin 1990

b. It was determined the applicant was mentally competent and had the capacity to understand the nature of and to cooperate in MEB proceedings.

c. The MEB concluded the applicant had a chronic depressive disorder that had been exacerbated by adverse circumstances and the anticipation of an adverse USMA regulations outcome. None of his conditions caused the alleged misconduct but must be taken into account if military service was being considered. Due to his recent suicidal behavior and psychiatric hospitalization, he did not meet the induction standards of Army Regulation 40-501, Chapter 2, paragraphs 28 and 29. He failed to meet the standard of Chapter 2, paragraph 30, due to his sexual behavior. Depression, Attention Deficit/Hyperactivity Disorder, and compulsive sexual behavior would all interfere with successful military performance. The MEB recommended that the applicant not be inducted into the U.S. Army.

d. The applicant indicated he did not desire to continue on active duty under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation). He desired to focus on his mental health to be an effective citizen.

e. The MEB findings and recommendation were approved on 14 June 2005.

f. The applicant agreed with the findings and recommendation of the MEB on 17 June 2005.



12. Tab C, provides the Summarized Record of Proceedings under the provisions of Army Regulation 210-26 held at the USMA on 20 June 2005 which show:

a. In May 2002, the applicant was found to have solicited an underage female for sexual activity over Instant Messenger. For this misconduct he received punishment and a suspended separation that expired in September 2003.

b. In May 2005, he was informed by his chain of command that he was under investigation for sexual activity on the internet. The applicant was accused of the following misconduct:

(1) On or about 25 April 2005, failed to obey a lawful general order, to wit: USCC SOP, Chapter 9, paragraph 912, by displaying pornography or sexually related material on his computer and by accessing via a government-operated computer system a website containing pornographic material, such act constituting a violation of Army Regulation 210-26, paragraph 6-14.

(2) On or about 22 May 2005, attempt to disobey a lawful general order, to wit: USCC SOP Annex A, Chapter 1, paragraph 102b, by attempting to engage in an improper relationship with a fourth class cadet, Cadet VB, such act constituting a violation of Army Regulation 210-26, paragraph 6-14.

(3) Between on or about 16 May 2004 and on or about 22 May 2005, create in his AOL Instant Messenger Buddy Info a link to obscene, nude photographs of himself masturbating and ejaculating in the barracks, intending that female USMA cadets would access and view the photographs, and knowing that he had previously been disciplined and placed under a suspended separation for similar misconduct on 31 May 2002, such acts constituting a violation of Army Regulation 210-26, paragraph 6-9.

c. The IO found that the preponderance of the evidence established first and third allegations but did not find the second allegation was supported by a greater weight of evidence. The IO recommended the applicant be separated from the USMA.

d. On 28 June 2005, a legal review of the investigation was conducted and was found to be in proper form.

e. The applicant's chain of command recommended that he be separated from the USMA for misconduct and that expenses for his education be recouped. On 7 July 2005, the Commandant of Cadets concurred with the recommendations and forwarded the case to the Superintendent for action.

13. The actions of the Superintendent and discharge orders are not filed in the available record or provided by the applicant or his counsel.

14. The applicant's DD Form 214 shows he was discharged from the Army and USMA as a cadet on 5 October 2005 under the provisions of Army Regulation 612-205 (Appointment and Separation of Service Academy Attendees), Table 3, Rule 6 and Army Regulation 210-26, paragraph 7-3b, due to misconduct. His service was characterized as Under Honorable Conditions (General). Item 26 (Separation Code) indicates Headquarters, USMA Orders #284-3, dated 11 October 2005. Item 27 (Reentry Code) contains the entry "NA" [Non-Applicable]. He was credited with service as a USMA cadet from 2 July 2001 to 5 October 2005 (4 years, 3 months, and 4 days). Item 18 (Remarks) show this service is not creditable for any purposes in commissioned officer status.

15. The applicant petitioned the ADRB for relief. On 13 January 2014, he was informed that after careful consideration of his military records and all other available evidence, the ADRB determined that he was properly and equitably discharged and denied his petition.

16. By law and regulation, as a condition of the Secretary concerned providing financial assistance, the Secretary of the Military Department concerned shall require a member to enter into a written agreement and if the terms and conditions of the agreement are not met, that member will be subject to repayment of the educational financial assistance either through entry onto active duty as an enlisted Soldier or monetary recoupment of education expenses.

17. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. By regulation, an applicant is not entitled to a hearing before the Board.

18. MEDICAL REVIEW:

a. Background: The applicant is requesting an upgrade of his characterization of service from under honorable conditions (general) to honorable. He further requests a change of the narrative reason for separation to reflect "Secretarial Authority" as well as more favorable SPD and Reentry Eligibility (RE) code. In addition, he requests a change of status at the U.S. Military Academy (USMA) West Point, NY, showing he graduated with a Bachelor of Science degree, elimination of recoupment obligations and refund of said payment.

b. This opine will narrowly focus on the applicant's request for a discharge upgrade and will defer the remaining requests to the Board.

c. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- The applicant entered the USMA as a cadet on 2 July 2001.
- In May 2002, the applicant was found to have solicited an underage female for sexual activity over Instant Messenger. For this misconduct he received punishment and a suspended separation that expired in September 2003.
- In May 2005, he was informed by his chain of command that he was under investigation for sexual activity on the internet. The applicant was accused of the following misconduct:
- On or about 25 April 2005, failed to obey a lawful general order, to wit: USCC SOP, Chapter 9, paragraph 912, by displaying pornography or sexually related material on his computer and by accessing via a government-operated computer system a website containing pornographic material, such act constituting a violation of Army Regulation 210-26, paragraph 6-14.
- On or about 22 May 2005, attempt to disobey a lawful general order, to wit: USCC SOP Annex A, Chapter 1, paragraph 102b, by attempting to engage in an improper relationship with a fourth class cadet, Cadet VB, such act constituting a violation of Army Regulation 210-26, paragraph 6-14.
- Between on or about 16 May 2004 and on or about 22 May 2005, created in his AOL Instant Messenger Buddy Info a link to obscene, nude photographs of himself masturbating and ejaculating in the barracks, intending that female USMA cadets would access and view the photographs, and knowing that he had previously been disciplined and placed under a suspended separation for similar misconduct on 31 May 2002, such acts constituting a violation of Army Regulation 210-26, paragraph 6-9.
- The IO found that the preponderance of the evidence established first and third allegations but did not find the second allegation was supported by a greater weight of evidence. The IO recommended the applicant be separated from the USMA.
- On 28 June 2005, a legal review of the investigation was conducted and was found to be in proper form.
- The applicant's chain of command recommended that he be separated from the USMA for misconduct and that expenses for his education be recouped. On 7 July 2005, the Commandant of Cadets concurred with the recommendations and forwarded the case to the Superintendent for action.
- The actions of the Superintendent and discharge orders are not filed in the available record or provided by the applicant or his counsel.
- The applicant's DD Form 214 shows he was discharged from the Army and USMA as a cadet on 5 October 2005 under the provisions of Army Regulation 612-205 (Appointment and Separation of Service Academy Attendees), Table 3, Rule 6 and Army Regulation 210-26, paragraph 7-3b, due to misconduct. His service was characterized as Under Honorable Conditions (General). Item 26

(Separation Code) indicates Headquarters, USMA Orders #284-3, dated 11 October 2005. Item 27 (Reentry Code) contains the entry "NA" [Non-Applicable]. He was credited with service as a USMA cadet from 2 July 2001 to 5 October 2005 (4 years, 3 months, and 4 days). Item 18 (Remarks) show this service is not creditable for any purposes in commissioned officer status.

- The applicant petitioned the ADRB for relief. On 13 January 2014, he was informed that after careful consideration of his military records and all other available evidence, the ADRB determined that he was properly and equitably discharged and denied his petition.

d. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant provides a statement of the alleged MST he experienced. His counsel states, applicant entered the USMA on 2 July 2001. He was enrolled for over four years before he was separated with a General (Under Honorable Conditions) characterization of service. His narrative reason for separation reflects "Misconduct." Unfortunately, prior to his separation from the USMA and the Army, the applicant became a victim of MST and sexual abuse at the hands of a senior service member. The MST and abuse occurred early in the applicant's first year at the USMA in 2001-2002 when he was 18-19 years old and groomed and abused for months by a senior Cadet. He did not come forward about this abuse, as is common for sexual abuse victims, until 20 years later in November 2021. The applicant has provided a detailed account of the MST and his resulting PTSD and mental health conditions in his personal statement. As a result of the MST, the applicant developed mental health conditions, including PTSD, and sexual compulsivity. He sought psychiatric treatment during his service, attempting to address various symptoms including sexual compulsivity with pornography and online sex. He received treatment from an Army Psychiatrist, Colonel (COL) JT. As a result of this treatment, the applicant was referred to a Medical Evaluation Board (MEB). The MEB concluded the applicant was not fit for accession, based on four conditions, including Major Depressive Disorder. The MEB recommended that the applicant not be inducted into the Army, a recommendation that was adopted by his technical chain. Unfortunately, the applicant's case was never referred to a Physical Evaluation Board.

e. Hardcopy medical documentation submitted by the applicant shows a MEB was convened on 13 June 2005 to evaluate the applicant's medical conditions. The MEB indicates the applicant was diagnosed with Major Depressive Disorder, Single Episode, Moderate. This condition was incurred while in service. However, the following conditions existed prior to service: Dysthymic Disorder, Sexual Disorder Not Otherwise Specified, and Attention-Deficit/Hyperactivity Disorder, Predominantly Inattentive. The MEB concluded the applicant had a chronic depressive disorder that had been exacerbated by the adverse circumstances of anticipation of an adverse USMA regulations outcome. None of his conditions caused his alleged misconduct but must be taken into account if military service was being considered. Due to his suicidal behavior

and psychiatric hospitalization, he did not meet the induction standards of Army Regulation 40-501, Chapter 2, paragraphs 28 and 29. Further he failed to meet the standard of Chapter 2, paragraph 30, due to his sexual behavior. Depression, Attention Deficit/Hyperactivity Disorder, and compulsive sexual behavior would all interfere with successful military performance. The MEB recommended the applicant not be inducted into the U.S. Army.

f. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 70% service connected for PTSD. The applicant was granted service connection and initially sought behavioral health services via the VA in November 2021. He has intermittently participated in individual psychotherapy and group therapy related to his self-reported symptoms of PTSD.

g. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is evidence the applicant had an experience while in military service and subsequent BH condition. However, his BH condition would not mitigate the reason for his discharge.

h. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts a mitigating condition, MST-related PTSD.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is 70% service-connected for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. The applicant was discharge from military service due to sexually soliciting a minor online and posting pornographic material online; sexual misconduct is not a natural sequela of his BH condition and would not mitigate the reason for his discharge. Specifically, PTSD does not impair an individual's ability to know right from wrong, understand consequences, and make purposeful, conscious decisions. Regarding the applicant's assertion of MST victimization, this is not mitigating either; MST experiences do not propel an individual to subsequently attempt to sexually victimize a minor or use government property to post pornography.

#### BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Discharge Upgrade: Deny. The evidence shows an investigation found the applicant committed misconduct in the form of displaying pornography or sexually related material on his computer and by accessing via a government-operated computer system a website containing pornographic material, and creating in his AOL Instant Messenger a link to obscene, nude photographs of himself masturbating and ejaculating in the barracks, intending that female USMA cadets would access and view the photographs, and knowing that he had previously been disciplined and placed under a suspended separation for similar misconduct. As a result, his USMA chain of command initiated separation action against him. He was discharged with a general, under honorable conditions discharge, which the Board found appropriate given the serious misconduct he committed. The Board also considered the medical records, any VA documents provided by the applicant and the review and conclusions of the medical reviewing official. The Board concurred with the medical official's finding the applicant had an experience while in military service and subsequent behavioral health condition; however, his behavioral health condition does not mitigate his misconduct and/or the reason or discharge. Additionally, although the applicant provided some documents and/or accomplishments in support of clemency, the Board determined such documents or accomplishments did not outweigh the misconduct he committed. Therefore, based on a preponderance of available evidence, the Board determined that the character of service the applicant received upon separation was not in error or unjust.

b. Change of the narrative reason, corresponding Separation Code, and Reentry Eligibility (RE) Code: Deny. The applicant was discharged under the provisions of AR 612-205 and AR 210-26, due to misconduct. His DD Form 214 lists his Separation Code as USMA Orders #284-3, dated 11 October 2005 and his RE Code as NA.

(1) Narrative Reason: Deny. The Board noted that the applicant's narrative reason for separation was assigned based on the fact that after he committed misconduct. Absent his misconduct, there was no reason for the USMA to initiate separation action against him. The underlying reason for his discharge was his commission of the misconduct. The only valid narrative reason for separation permitted under the provisions of AR 612-205, Table 3, Rule 6 and AR 210-26, paragraph 7-3b, is misconduct. Therefore, based on a preponderance of available evidence, the Board determined that the narrative reason for separation the applicant received upon separation was not in error or unjust.

(2) Separation Code: Deny. The Board further noted that at the time of the applicant's separation, USMA cadets who were involuntarily separated due to misconduct were not assigned a specific Separation Code. AR 635-5-1 which governed

Separation Codes at the time applies to officers and enlisted soldiers of the Regular Army, Army National Guard, and U.S. Army Reserve who are issued DD Form 214 in accordance with AR 635–5 upon separation from active duty.

(3) Reentry Code. Deny. By regulation, cadets of the USMA are not issued a reentry code. As such, the Board found the entry “NA” on his DD Form 214 is appropriate.

c. Graduate with a Bachelor of Science degree, and the USMA Superintendent conferred his diploma, and the Dean of the Academic Board changed his transcript to reflect the same: Deny. The Superintendent of the USMA confers a bachelor’s degree on cadets who meet the following requirements: Complete the course of instruction, including academic, military, and physical development programs; maintain prescribed standards of conduct; and demonstrate proper moral-ethical qualities, leadership, and character. The evidence available to the Board shows the applicant committed serious misconduct. The Board believes he did not maintain prescribed standards of conduct and did not demonstrate proper moral-ethical qualities, leadership, and character.

d. Cancellation of recoupment of debt to the Federal Government for education cost at the USMA and refund of said payment: Deny. The Board noted that USMA cadets commit to serving at least five years on active duty and three years in the IRR. When the applicant entered the USMA, he agreed that if he were separated for misconduct, he would have to repay the tuition that was paid on his behalf. Given that the applicant did not fulfil his commitment and/or the terms prescribed in his USMA agreement, by law and regulation, he is required to repay the cost of his education. The Board did not find evidence of error or a convincing argument that he should be relieved from his financial obligation. Therefore, the Board determined repayment of tuition by the applicant is appropriate and there was no convincing reason to cancel the recoupment.



BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, USC, Section 1552(b), provides that applications for correction of military records must be filed within three years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Title 10, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by ARBA is provided a copy of all correspondence and communications, including summaries of verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or



Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Title 10, USC, subsection 2005, states the Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement; that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement; that if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed pursuant to paragraph (4), such person shall be subject to the repayment provisions of section 303a(e) of title 37; and to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

4. Title 10, USC, subsection 2005(f)(2002), further stipulates that, as a condition of the Secretary concerned providing financial assistance to any person, the Secretary concerned shall require the person enter into an agreement as described in the preceding paragraph and if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed in the agreement, the person shall be subject to the repayment without the Secretary first ordering such person to active duty.

5. Under the provisions of DoD Directive (DoDD) 1332.23, paragraph 6.1.1.3, as an exception to the general rule that cadets separated from the service academies will be ordered to active duty, separated cadets who are found to be not suited for enlisted military service, for reasons of demonstrated unsuitability, unfitness, or physical disqualification, shall be discharged from the Army. Further, in accordance with Title 10 USC, subsection 2005, when a cadet does not fulfill the terms of his service agreement, he is subject to the uniform repayment provisions of Title 37 USC, subsection 303a(e).

6. A USMA cadet who is disenrolled for misconduct and obligated to reimburse his educational expenses does not have the option of performing equivalent military service under Title 10 or Title 32 in lieu of payment for the cost of his or her education. However, DoDD 1332.23, paragraph 6.1.4.1, the Secretary of the Army may consider "humanitarian reason, military service needs, or other mitigating circumstances for waiving reimbursement charges for disenrolled cadets." This authority has been expressly delegated to the ASA (M&RA).

7. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR.

prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

8. Army Regulation 635-200 (Active Duty Enlisted Personnel Separations) sets forth the basic authority for the separation of enlisted personnel, including USMA cadets.

a. Paragraph 3-7a provides that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

9. Army Regulation 40-501 governs the medical fitness standards for enlistment, induction, and appointment, including officer procurement programs.

a. Chapter 2 implements DoDD 6130.3 (Physical Standards for Appointment, Enlistment, and Induction) and DoD Instructions 6130.4 (Medical Standards for Appointment, Enlistment, or Induction in the Armed Forces). In part, the standards contained in this chapter are to ensure that individuals are medically capable of satisfactorily completing required training. Medical conditions listed in paragraph 2-3 through 2-32 are disqualifying by virtue of current diagnosis, or for which the candidate has a verified past medical history.

b. Paragraph 2-27j states anyone who has a history of suicidal behavior, including gesture(s) or attempt(s) (300.9), or a history of self-mutilation, does not meet the standard for appointment (commissioning).

c. Chapter 3 gives various medical conditions and physical defects which may render a Soldier unfit for further military service and which fall below the standards required for individuals. These medical conditions and physical defects, individually or in combination, are those that:

- (1) Significantly limit or interfere with the Soldier's performance of their duties.

(2) May compromise or aggravate the Soldier's health or well-being if they were to remain in the military Service. This may involve dependence on certain medications, appliances, severe dietary restrictions, or frequent special treatments, or a requirement for frequent clinical monitoring.

(3) May compromise the health or well-being of other Soldiers.

(4) May prejudice the best interests of the Government if the individual were to remain in the military Service.

d. The medical condition(s) listed in paragraph 2-27j of this regulation is/are not contained in chapter 3 and therefore does not meet the criteria for a referral to a medical board.

10. Army Regulation 210-26 provides policy and procedures for the general governance and operation of the USMA.

a. Cadets of the USMA must meet the medical accession standards of Army Regulation 40-501, chapter 2, for retention at the USMA and for appointment as officers upon graduation. The Superintendent may, however, grant medical waivers for continuation at the USMA, provided the cadet meets the retention standards of Army Regulation 40-501, chapter 3.

b. Paragraph 6-30 (Medically disqualified cadets) states that whenever the Surgeon, USMA, determines a USMA cadet does not meet the fitness requirements to perform all duties as a member of the Corps of Cadets during the current academic term or summer training period, or will not meet the medical fitness standards for appointment on active duty at the expected time of commissioning, the Superintendent will review the case and, at his discretion, take one of the following actions:

(1) Afford the cadet an opportunity to resign.

(2) Recommend that, in the case of the medical disqualification under cadet retention standards as provided in Army Regulation 40-501, the cadet be separated (see Army Regulation 612-205).

(3) For cadets of the first class (4th year), recommend they be retained and graduated, either as provided in paragraph 5-3b of this regulation, or, if otherwise qualified, by being granted a waiver and commissioned.

(4) Recommend that the cadet, if physically disqualified for any military service, be discharged (paragraph 5-3b of this regulation and Army Regulation 612-205).

c. Chapter 6 (Misconduct, Honor, Disciplinary, and Other Grounds for Separation), section II (Major Misconduct), provides:

(1) Paragraph 6-14 (Other major misconduct offenses) states, a cadet who commits an offense punishable under the UCMJ by confinement for a term of 6 months or more may be separated from the Military Academy.

(2) Paragraph 6-15 (Procedures for processing major misconduct offenses) states that cadets subject to separation under the provisions of this section of this regulation may, at the discretion of the Superintendent, be referred to a hearing before an IO under the provisions of this paragraph. Should the Superintendent elect to proceed under the provisions of this paragraph, cadets concerned will be directed to appear as respondents before an IO appointed by the Superintendent. The IO will conduct an investigation of the matter in accordance with procedures approved by the Superintendent. Upon completion of the investigation, the IO will submit the record of the proceedings, including his or her findings and recommendations, to the Superintendent for action pursuant to paragraph 7-3 of this regulation.

d. Chapter 7 (Separations and Resignations):

(1) Paragraph 7-1 states:

(a) Cadets who enter the USMA directly from a civilian status assume a Military Service Obligation (MSO) of 8 years when they enter the Academy. However, they have no active duty service obligation and will be discharged, with their MSO waived, if they resign or are separated from the Academy prior to the commencement of term 1 of their second class year. However, cadets have an MSO equivalent to the period for which they are ordered to serve on active duty or in a Reserve component in an enlisted status, if they resign or are separated after the commencement of term 1 of their second class year, but before completing the course of instruction (COI). They may be ordered to active duty for a period of not less than 2 years, but no more than 4 years.

(b) All cadets, regardless of entrance source, who are first class cadets who complete the COI and decline to accept an appointment as a commissioned officer will be transferred to the Reserve component in an enlisted status and ordered to active duty for 4 years. However, cadets who resign or are separated, and who are, for

reasons of unsuitability, unfitness, or physical disqualification, not suited for enlisted service will be discharged.

(2) Paragraph 7-2 (Delegation of separation and discharge authority) states the Superintendent, USMA, is delegated the authority to separate cadets from the Military Academy, prior to the commencement of term 1 of their second class year, cadets who have no prior service obligation remaining and to discharge such cadets from the Army with issuance of an Honorable Discharge Certificate pursuant to paragraphs 6-18 through 6-22, 6-24, 6-25, 6-28 through 6-30, 6-32, and 7-5 through 7-6 of this regulation, unless such cadets entered the USMA from a military service other than the Army, in which case they will be transferred to their parent service upon separation under this paragraph.

(3) Paragraph 7-3 (Action by the Superintendent) states, the summarized record of a proceeding before a Misconduct Hearing, Honor Investigation Hearing, or Conduct Investigation will be reviewed by the Staff Judge Advocate. A copy of the summarized record, along with the Staff Judge Advocate's review, will be forwarded to the Commandant of Cadets for consideration. Thereafter, the record, the recommendations and comments of the Commandant, if any, and the Staff Judge Advocate's review will be provided to the respondent for consideration and an opportunity for rebuttal. The Superintendent will review the entire record, including the Staff Judge Advocate's review, the Commandant's recommendation, and any matters offered by the respondent prior to taking action on the case. Except in cases where the Superintendent is the separation authority, all documents pertinent to the separation of a cadet from the Academy will be forwarded to HQDA, for final action. The Superintendent will make recommendations concerning separation from the Academy and discharge from the Service. If discharge is recommended, the type of discharge recommended will be specified.

(4) Paragraph 7-9 (Breach of service agreement and reimbursement of educational costs) states, cadets who resign from the USMA, or who are separated from the Academy under the procedures contained in table 7-1, will be deemed to have breached their service agreement. Table 7-1 exclusively lists: conduct deficiency, extended unauthorized absence, marriage or support obligation, misconduct, conscientious objection, or refusal to perform duties that conflict with religious practices, failure to maintain physical fitness standards, or failure to meet army weight and body composition standards or make satisfactory progress in a weight control program.

e. Cadets separated from the USMA under procedures other than those contained in table 7-1 may be deemed by the Superintendent to have breached their service

agreement if the cadet's failure to meet the standards for continued attendance at the USMA or for commissioning resulted from a willful act or omission.

f. A cadet who voluntarily, or because of misconduct fails to complete the period of active duty service specified by the Secretary in the cadet's agreement to serve may be required to reimburse the Government for educational costs pursuant to and implementing regulations. If the Secretary determines that such active duty service is not in the best interests of the Army, the cadet will be considered to have failed to complete the period of active duty and may be required to reimburse the government for educational costs.

(1) A cadet who may be subject to this reimbursement requirement will be advised, in writing, of such requirement before deciding on a course of action regarding personal involvement in administrative or judicial action resulting from alleged misconduct.

(2) When the Superintendent recommends reimbursement of educational costs and the cadet disputes the validity of the debt, the Superintendent is authorized to appoint an IO to hear evidence concerning the validity of the debt under 10 USC 2005(g)(1).

g. Table 7-1 states that separations are deemed to be a breach of service contract when the reason for separation involves misconduct in accordance with paragraphs 6-9 through 6-19, this regulation.

h. Table 7-2 (Delegation of separation and discharge authority), rule 5 states that if the separation will occur after commencement of the term 1 of the second class year (junior year) and the cadet entered USMA from any source, and the military service obligation is in effect (all cases), and the cause for separation is any case under chapters 6 and 7, the separation authority is the SA and the discharge authority is the SA. However, note 3 states the ASA (M&RA) is delegated the authority to separate first and second class cadets where separation and a call to active duty is recommended. If no call to active duty is recommended, first and second class cadets recommended for separation, except for medical separations, may be separated by DCS, G-1.

11. DoDD 1332.23 states in subparagraph 6.1.4. ordinarily, disenrolled cadets shall be ordered to Reserve or active duty status if qualified.

a. Subparagraph 6.1.4.1. - This shall not preclude the Military Department from considering humanitarian reasons, Military Service needs, or other mitigating



circumstances for waiving active enlisted service and reimbursement charges for disenrolled cadets. Such considerations shall be documented carefully by the Military Department concerned, which shall also make final decisions on active enlisted status.

b. Subparagraph 6.1.4.2. - Persons medically disqualified from further Military Service shall be separated and shall not be obligated further for Military Service or for reimbursing education costs (absent evidence of fraud, concealment, gross negligence, intentional misconduct, or misrepresentation).

12. DoDD 6130.3 Establishes medical standards for appointment, enlistment, or induction into the Military Services, which, if not met, are grounds for rejection for military service. Unless otherwise stipulated, the conditions listed in this enclosure are those that do NOT meet the standard by virtue of current diagnosis, or for which the candidate has a verified past medical history.

a. History of depressive disorders, including but not limited to major depression (296), dysthymic disorder (300.4), and cyclothymic disorder requiring outpatient care for longer than 12 months by a physician or other mental health professional (to include V65.40), or any inpatient treatment in a hospital or residential facility.

b. Depressive disorder not otherwise specified (311), or unspecified mood disorder (296.90), UNLESS: Outpatient care was not required for longer than 24 months (cumulative) by a physician or other mental health professional (to include V65.40).

13. Army Regulation 612-205 set forth the basic authority for appointment and procedures for the separation of cadets from the USMA.

a. Section III provides for the separation of cadets due to physical disability.

(1) When separating for physical disability and if the cadet entered the program from an active duty status, convene a medical board to determine if the cadet is physically qualified for retention at the USMA and on active duty. The medical report will be sent to HQDA.

(2) Cadets disqualified for retention at the USMA will be separated from the USMA.

(3) If qualified for retention on active duty and if cadets have 6 months or more remaining on their active duty obligation, they will revert to enlisted status for completion

of their obligation. If less than 6 months remain on their active duty obligation, they will be transferred to the Reserve to complete their obligation.

(4) If not qualified for retention on active duty, they will be discharged from the Army per Army Regulation 635-40.

b. Chapter 7 establishes policy and prescribes procedures for separating members for reasons other than physical disability. A member separated under this chapter will be processed under provisions of Table 3. Table 3, Rule 6 and Army Regulation 210-26, paragraph 7-3b, identifies cadets who are discharged under the provisions of these Regulations, as misconduct. If the separation authority determines that the cadet is being separated from the academy because of demonstrated unsuitability, unfitness, or physical disqualification from military service, the cadet will be discharged from the Army.

14. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel,

a. Paragraph 3-7a states an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

15. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; traumatic brain injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.



16. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//